

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION

STELLA ELLIS

PLAINTIFF

vs.

CAUSE NO. 3:15-CV-123-MPM-SAA

KENNETH WHITE, DEAN POYNER,
JUSTON ROBERTSON, TERRY GRIFFIN,
GREG POLLAN, CALHOUN COUNTY SHERIFF'S
DEPARTMENT, EARNEST FOX,
J.B. ROGERS, JR., GWIN LONGEST,
BARNEY J. WADE, TONY MORGAN,
CALHOUN COUNTY SUPERVISORS,
LYNN ROGERS, HON. JUDGE JIMMY VANCE,
HON. JUDGE MARK FERGUSON,
CALHOUN COUNTY

DEFENDANTS

OMNIBUS MOTION

NOW COME Plaintiff and Defendants, by counsel, seeking various items of relief reasonably calculated to expedite the efficient development of this matter:

1. Defendants have a pending motion [Docket Entry 8] which we agree should be dismissed without prejudice as moot based upon the litigation plan submitted herein.
2. Defendants have a pending motion in the Circuit Court of Calhoun County which has been resolved by agreed stipulation of dismissal. That case is being dismissed. The parties agree that the dismissal shall have no prejudicial effect on this proceeding which seeks only federal relief.
3. Plaintiff agrees to dismiss **CALHOUN COUNTY BOARD OF SUPERVISORS** [official capacity defendant], **FOX, ROGERS, MORGAN, LONGEST, WADE** [current members of the Calhoun County Board of Supervisors, sued individually and as duplicate official capacity defendants], **CALHOUN COUNTY JUSTICE COURT JUDGE MARK FERGUSON** [sued in his official capacity], Defendants **POYNER, ROBERTSON, GRIFFIN** [Calhoun County Sheriff's

Deputies at the time of arrest] and **CALHOUN COUNTY SHERIFF'S DEPARTMENT** [not a proper entity under 42 U.S.C. §1983],

4. Plaintiff desires to maintain her claims against **SHERIFF GREG POLLEN** [sued in his individual and official capacities], **CALHOUN COUNTY JUSTICE COURT JUDGE JIMMY VANCE** [sued in his individual capacity], **CALHOUN COUNTY DEPUTY SHERIFF KENNETH WHITE** [sued in his individual capacity], **CALHOUN COUNTY JAIL ADMINISTRATOR LYNN ROGERS** [sued in his individual capacity], and **CALHOUN COUNTY**. Defendants are in agreement with this retention and classification of the remaining Defendants.

5. Due to the pending pre-answer motion, Defendants have yet to answer. Those remaining defendants shall answer within (10) days of entry of this order.

6. Frankly, Counsel considered and discussed formally designating a period of immunity based discovery. Efficiency and cost suggest otherwise. Although the remaining defendants believe in good faith that viable affirmative defenses exist (including qualified immunity and judicial immunity), Counsel have agreed to a block of discovery to be taken during May 2016, which Counsel agree shall not be deemed a waiver of any affirmative defense available to the remaining defendants.

SUMMATION

With the advice and instruction of the Magistrate Judge and her staff, the undersigned counsel have fashioned what we believe to be an efficient and effective mechanism to preserve the claims the Plaintiff wishes to address, afford due process to the Defendants and develop a record sufficient for future resolution by settlement, motion or trial. The undersigned counsel are open to such other relief as the District Court and his staff might view appropriate. Our plan is to jointly

tender a proposed order and then work with the Court's staff to produce an approved order which the Court deems appropriate in light of the objectives of the parties.

RESPECTFULLY SUBMITTED this 12th day of May, 2016.

ALL DEFENDANTS

By: /s/ *Daniel J. Griffith*
Daniel J. Griffith, MS Bar No. 8366
Attorney for Defendants

Of Counsel:

Jacks | Griffith | Luciano, P.A.
P. O. Box 1209
150 North Sharpe Avenue
Cleveland, MS 38732
t 662-843-6171
f 662-843-6176
dgriffith@jlpalaw.com
www.jlpalaw.com

CERTIFICATE OF SERVICE

I, Daniel J. Griffith, lead attorney of record for Defendants, hereby certify that I have this day caused a true and correct copy of the above and foregoing ***Omnibus Motion*** to be delivered VIA ECF FILING to all Counsel of Record. In accord with our local rules, Counsel for Plaintiff shall hereafter submit a ratification approving his joinder to this motion as counsel of record for Plaintiff.

DATED this 12th day of May, 2016.

/s/ *Daniel J. Griffith*
Daniel J. Griffith